

Senate Engrossed House Bill

**FILED**

**JANICE K. BREWER  
SECRETARY OF STATE**

State of Arizona  
House of Representatives  
Forty-eighth Legislature  
Second Regular Session  
2008

CHAPTER 309

## **HOUSE BILL 2822**

AN ACT

REPEALING SECTIONS 32-2302, 32-2303, 32-2320 AND 41-3008.07, ARIZONA REVISED STATUTES; AMENDING SECTION 32-2301, ARIZONA REVISED STATUTES; AMENDING TITLE 32, CHAPTER 22, ARTICLE 1, ARIZONA REVISED STATUTES, BY ADDING A NEW SECTION 32-2302; AMENDING SECTIONS 32-2304, 32-2305, 32-2306, 32-2308, 32-2311, 32-2312, 32-2313, 32-2314, 32-2317, 32-2319, 32-2321, 32-2323, 32-2324, 32-2324.01, 32-2325, 32-2327, 32-2329, 36-606 AND 41-1092, ARIZONA REVISED STATUTES; RELATING TO STRUCTURAL PEST MANAGEMENT.

(TEXT OF BILL BEGINS ON NEXT PAGE)

1 Be it enacted by the Legislature of the State of Arizona:

2 Section 1. Repeal

3 Sections 32-2302, 32-2303, 32-2320 and 41-3008.07, Arizona Revised  
4 Statutes, are repealed.

5 Sec. 2. Section 32-2301, Arizona Revised Statutes, is amended to read:

6 32-2301. Definitions

7 In this chapter, unless the context otherwise requires:

8 1. "ACTING DIRECTOR" MEANS THE PERSON APPOINTED PURSUANT TO SECTION  
9 32-2302 TO SERVE AS THE ACTING DIRECTOR OF THE OFFICE.

10 ~~1-~~ 2. "Branch office" means any fixed place of business, other than  
11 the primary office, where records are kept, mail is received, statements are  
12 rendered, money is collected, requests for service or bids are received or  
13 information pertaining to the business of structural pest control is given  
14 and from which the use of pesticides and devices is supervised by a certified  
15 LICENSED applicator or qualifying party.

16 ~~2-~~ 3. "Business license" means a license that is issued pursuant to  
17 this chapter to a person and that entitles that person and the person's  
18 employees to engage in the business of structural pest control.

19 ~~3-~~ 4. "Business of structural pest control" means engaging in,  
20 offering to engage in, advertising for, soliciting or performing structural  
21 pest control, including any of the following:

22 (a) Identifying infestations or making inspections for the purpose of  
23 identifying or attempting to identify infestations of households or other  
24 structures and the surrounding area by any of the following:

25 (i) Public health pests.

26 (ii) Aquatic pests.

27 (iii) Household pests.

28 (iv) Wood-destroying insects.

29 (v) Pests, including weeds, existing around structures, in ornamental  
30 shrubs and trees, on golf courses, along rights-of-way or in lawns and  
31 cemeteries.

32 (vi) Fungi.

33 (b) Making written or oral inspection reports, recommendations,  
34 estimates or bids with respect to infestations.

35 (c) The application of pesticides or the making of contracts or  
36 submitting of bids for the application of pesticides or the use of devices  
37 for the purpose of eliminating, exterminating, controlling or preventing  
38 infestations.

39 ~~4. "Commission" means the structural pest control commission~~  
40 ~~established by section 32-2302.~~

41 5. "De minimis violation" means a violation that, although  
42 undesirable, has no direct or immediate relationship to safety, health or  
43 property damage.

44 6. "DEPARTMENT" MEANS THE ARIZONA DEPARTMENT OF ADMINISTRATION.

1       ~~6.~~ 7. "Device" means any mechanical, pesticide or electrical  
2 apparatus used in conjunction with, in place of or to supplement, disperse or  
3 dispense pesticides.

4       ~~7.~~ 8. "Direct supervision" means use of a pesticide under the  
5 instructions, control and responsibility of a licensed applicator who is  
6 available if needed for consultation or assistance even though the licensed  
7 applicator is not physically present at the time and place the pesticide is  
8 used.

9       9. "DIRECTOR" MEANS THE DIRECTOR OF THE ARIZONA DEPARTMENT OF  
10 ADMINISTRATION.

11       ~~8.~~ 10. "Final grade treatment" means establishment of vertical  
12 barriers at the exterior of foundation walls in stem wall construction or at  
13 the exterior of grade beams in monolithic construction.

14       ~~9.~~ 11. "Fungi inspection report" means a written inspection report on  
15 a form approved by the ~~commission~~ OFFICE.

16       ~~10.~~ 12. "Household pests" means pests, other than wood-destroying  
17 insects, that invade households or other structures, including rodents,  
18 vermin and insects.

19       ~~11.~~ 13. "Immediate supervision" means use of a pesticide by an  
20 employee acting under the instructions, control and responsibility of a  
21 licensed applicator who is within the direct line of sight or within hearing  
22 distance of the employee and who is available for consultation or assistance  
23 at the time and place the pesticide is used.

24       ~~12.~~ 14. "Initial termite corrective treatment" means the first  
25 treatment of any kind performed by a licensee after a treatment made prior to  
26 or during construction, excluding a treatment performed UNDER WARRANTY by a  
27 licensee who has performed the treatment prior to or during construction and  
28 ~~is performed under warranty.~~

29       ~~13.~~ 15. "Inquiry" means information from the public or ~~commission~~  
30 AGENCY staff of possible violations of this chapter, or rules adopted  
31 pursuant to this chapter.

32       ~~14.~~ 16. "Integrated pest management" means a sustainable approach to  
33 managing pests that combines biological, cultural, physical and pesticide  
34 tools in a way that minimizes economic, health and environmental risks.

35       ~~15.~~ 17. "License" means an approval granted by the ~~commission~~ OFFICE  
36 to act as an applicator or qualifying party or to operate a business of  
37 structural pest control in this state.

38       ~~16.~~ 18. "Licensed applicator" means a person who is licensed by the  
39 ~~commission~~ OFFICE to apply pesticides in accordance with this chapter.

40       19. "OFFICE" MEANS THE OFFICE OF PEST MANAGEMENT ESTABLISHED BY SECTION  
41 32-2302.

42       ~~17.~~ 20. "Other structures" includes railroad cars, boats, docks, motor  
43 vehicles or airplanes and their contents.

1        21. "PEST MANAGEMENT" MEANS THE MANAGEMENT OF PUBLIC HEALTH PESTS,  
2        AQUATIC PESTS, HOUSEHOLD PESTS, WOOD-DESTROYING INSECTS, FUNGI OR OTHER  
3        PESTS, INCLUDING WEEDS, THAT EXIST NEAR OR AROUND STRUCTURES, IN ORNAMENTAL  
4        SHRUBS AND TREES, ON GOLF COURSES, ALONG RIGHTS-OF-WAY OR IN LAWNS OR  
5        CEMETERIES AND ALL PESTICIDE APPLICATION THAT COULD BE HARMFUL TO PUBLIC  
6        HEALTH OR THE ENVIRONMENT. PEST MANAGEMENT DOES NOT INCLUDE PESTICIDE  
7        APPLICATIONS USED DIRECTLY IN THE COMMERCIAL PRODUCTION OF CROPS AND ANIMALS  
8        IF THOSE APPLICATIONS ARE GOVERNED BY THE ARIZONA DEPARTMENT OF AGRICULTURE  
9        PURSUANT TO TITLE 3, CHAPTER 2, ARTICLES 6 AND 6.1.

10       ~~18.~~ 22. "Pesticide" means any substance or mixture of substances  
11       intended to be used for defoliating plants or for preventing, destroying,  
12       repelling or mitigating insects, fungi, bacteria, microbes, weeds, rodents,  
13       predatory animals or any form of plant or animal life that is a pest and may  
14       infest or be detrimental to vegetation, humans, animals or households or be  
15       present in any environment.

16       ~~19.~~ 23. "Prior violation" means any violation for which disciplinary  
17       action was taken within a five-year period prior to the date of the violation  
18       for which current disciplinary action is sought.

19       ~~20.~~ 24. "Qualifying party" means an individual who is licensed by the  
20       ~~commission~~ OFFICE to ensure the supervision and training of all employees of  
21       a business licensee in the business of structural pest control.

22       ~~21. "Structural pest control" means controlling public health pests,~~  
23       ~~aquatic pests, household pests, wood-destroying insects, fungi or other~~  
24       ~~pests, including weeds, that exist near or around structures, in ornamental~~  
25       ~~shrubs and trees, on golf courses, along rights of way or in lawns or~~  
26       ~~cemeteries and all pesticide application that could be harmful to public~~  
27       ~~health or the environment. Structural pest control does not include~~  
28       ~~pesticide applications used directly in the commercial production of crops~~  
29       ~~and animals if such applications are governed by the Arizona department of~~  
30       ~~agriculture pursuant to title 3, chapter 2, articles 6 and 6.1.~~

31       ~~22.~~ 25. "Weed" means any plant that grows where it is not wanted.

32       ~~23.~~ 26. "Wood-destroying insect INSPECTION report" means a written  
33       inspection report on a form approved by the ~~commission~~ ACTING DIRECTOR that  
34       is prepared in connection with the sale or refinancing of real property  
35       whether or not the report is used as part of the transaction.

36       ~~24.~~ 27. "Wood-destroying insects" means insects that attack, damage or  
37       destroy wood or wood-derivative products.

38       Sec. 3. Title 32, chapter 22, article 1, Arizona Revised Statutes, is  
39       amended by adding a new section 32-2302, to read:

40       32-2302. Office of pest management; acting director

41       A. THE OFFICE OF PEST MANAGEMENT IS ESTABLISHED.

42       B. THE DIRECTOR OF THE DEPARTMENT OF ADMINISTRATION SHALL APPOINT AN  
43       ACTING DIRECTOR OF THE OFFICE WHO HAS ADMINISTRATIVE EXPERIENCE AND  
44       EXPERIENCE IN PEST MANAGEMENT.

1           Sec. 4. Section 32-2304, Arizona Revised Statutes, is amended to read:  
2           32-2304. Powers and duties

3           A. The ~~commission~~ ACTING DIRECTOR IS RESPONSIBLE FOR ADMINISTERING  
4 THIS CHAPTER AND shall:

5           1. Adopt rules that are necessary or proper for the administration of  
6 this chapter, including administrative provisions, EDUCATION REQUIREMENTS,  
7 health and safety provisions and provisions for the use, storage and  
8 application of pesticides and devices used in structural pest control.

9           2. Administer and enforce this chapter and rules adopted pursuant to  
10 this chapter.

11           ~~3. Maintain a record of its acts and proceedings, including the~~  
12 ~~issuance, refusal, renewal, suspension or revocation of licenses.~~

13           ~~4. At least thirty calendar days before adoption of a rule, form or~~  
14 ~~policy, mail a copy of notice of a proposed rule, form or policy adoption,~~  
15 ~~including the text of the proposed rule, form or policy, to each business~~  
16 ~~licensee who has made a request to the commission, except that if the~~  
17 ~~commission finds that adoption of a rule is necessary for immediate~~  
18 ~~preservation of the public peace, health and safety and that notice is~~  
19 ~~impractical, unnecessary or contrary to public interest it may adopt a rule~~  
20 ~~without prior notice. Within thirty calendar days after the adoption of a~~  
21 ~~statute by the legislature or approval of a rule by the governor's regulatory~~  
22 ~~review council, the commission shall notify all business licensees in~~  
23 ~~writing.~~

24           ~~5. Hire inspectors as needed, considering recommendations of the~~  
25 ~~executive director.~~

26           ~~6.~~ 3. Notify the business licensee, applicator and qualifying party  
27 in writing of any complaint against the business licensee, qualifying party  
28 or employee of the business licensee by the close of business on the tenth  
29 business day after the day on which the ~~commission~~ ACTING DIRECTOR initiated  
30 the complaint.

31           ~~7. Receive and appropriately respond to any inquiry.~~

32           ~~8.~~ 4. Issue subpoenas for the taking of depositions, the production  
33 of documents and things and the entry on land for inspection and measuring,  
34 surveying, photographing, testing or sampling the property or any designated  
35 object or operation on the property relevant to the complaint.

36           ~~9. List any complaint, inquiry, issue or matter it plans to discuss at~~  
37 ~~a public meeting in the agenda for the meeting.~~

38           ~~10. Make applicator license and qualifying party license test study~~  
39 ~~materials available, at the commission's actual costs, to any interested~~  
40 ~~person.~~

41           ~~11.~~ 5. Conduct or contract to conduct applicator license and  
42 qualifying party license tests at locations throughout this state. If the  
43 ~~commission~~ ACTING DIRECTOR contracts for these tests, the contracts may  
44 provide for specific examination fees or a reasonable range of fees  
45 determined by the ~~commission~~ ACTING DIRECTOR to be paid directly to the

1 contractor by the applicant. The ~~commission~~ ACTING DIRECTOR shall make all  
2 efforts to contract with private parties to electronically administer the  
3 applicator and qualifying party license tests.

4 ~~12. Refer all cases of termite treatments that are done before or~~  
5 ~~during construction and that involve alleged criminal fraud to the criminal~~  
6 ~~fraud division of the attorney general's office and refer any case the~~  
7 ~~commission determines to contain information relating to a possible felony to~~  
8 ~~the proper law enforcement agency.~~

9 ~~13.~~ 6. Maintain a computer system for the benefit and protection of  
10 the public that includes the following information on termite treatments that  
11 are done before or during construction, initial termite corrective projects,  
12 preventative termite treatments and wood-destroying insect inspection  
13 reports:

14 (a) The name of the individual who performed the work.

15 (b) The address or location of the work or project.

16 (c) The name of the pest ~~control~~ MANAGEMENT company.

17 (d) The name of the qualifying party.

18 (e) The applicator license numbers.

19 (f) The nature and date of the work performed.

20 (g) Any other information that is required by ~~the commission in its~~  
21 ~~rules~~ RULE.

22 ~~14.~~ 7. Establish offices it deems necessary to carry out the purposes  
23 of this chapter.

24 ~~15.~~ 8. Employ ~~an executive director and other~~ permanent or temporary  
25 personnel it deems necessary to carry out the purposes of this chapter and  
26 designate their duties.

27 ~~16.~~ 9. Investigate violations of this chapter and rules adopted  
28 pursuant to this chapter.

29 ~~17.~~ 10. Oversee the approval, content and method of delivery of  
30 continuing education courses.

31 ~~18.~~ 11. Deny a license to any person who has had a license revoked for  
32 a period of five years from the time of revocation.

33 ~~19.~~ 12. License applicators, qualifying parties and businesses in  
34 accordance with this chapter and rules adopted pursuant to this chapter.

35 ~~20. Prepare guidelines for an integrated pest management program for~~  
36 ~~structural pest control practices at schools. On or before December 1 of~~  
37 ~~each year, the commission shall report on the progress of preparing the~~  
38 ~~guidelines to the governor, the president of the senate and the speaker of~~  
39 ~~the house of representatives and shall provide a copy of the report to the~~  
40 ~~secretary of state and the director of the Arizona state library, archives~~  
41 ~~and public records. The guidelines shall include the following:~~

42 ~~(a) The identification of pests.~~

43 ~~(b) The establishment of a monitoring and record keeping system for~~  
44 ~~regular sampling and assessment of pest populations.~~

1       ~~(c) The determination of the pest population levels that can be~~  
2 ~~tolerated based on aesthetic, economic and health concerns and setting action~~  
3 ~~thresholds if pest populations or environmental conditions warrant remedial~~  
4 ~~action.~~

5       ~~(d) A plan to prevent pest problems through improved sanitation, waste~~  
6 ~~management, physical barriers and the modification of habitats that attract~~  
7 ~~or harbor pests.~~

8       ~~(e) The reliance on nontoxic, biological, cultural or natural control~~  
9 ~~agents.~~

10       ~~(f) The use of pesticides, if necessary, with preference for products~~  
11 ~~that are the least harmful to human health and the environment.~~

12       21. 13. Require the payment of a penalty for any late license renewal.

13       22. 14. Require either completion of the continuing education  
14 requirement or successful completion of the license examination for failure  
15 to renew a license on time.

16       23. 15. Suspend a license if a licensee fails to renew the license  
17 within thirty calendar days ~~of~~ AFTER the renewal date.

18       24. 16. Refuse to issue a business license in a name that is not  
19 registered with the secretary of state or filed with the Arizona corporation  
20 commission.

21       25. 17. Adopt a wood-destroying insect inspection report form for use  
22 by business licensees.

23       B. THE ACTING DIRECTOR MAY CHARGE TO THE HOLDER OF A BUSINESS LICENSE  
24 THE ACTUAL COST OF PROVIDING MAILED COPIES OF RULES, FORMS OR POLICIES THAT  
25 ARE PROPOSED FOR ADOPTION AND FOR EDUCATIONAL MATERIALS.

26       C. THE ACTING DIRECTOR SHALL ADMINISTER AND ENFORCE THIS CHAPTER AND  
27 THE RULES ADOPTED PURSUANT TO THIS CHAPTER.

28       B. D. The ~~commission~~ ACTING DIRECTOR may:

29       1. Compel attendance of witnesses, administer oaths or affirmations  
30 and take testimony concerning all matters coming within ~~it's~~ THE ACTING  
31 DIRECTOR'S jurisdiction.

32       2. Require a person who seeks a license pursuant to this chapter to  
33 submit to the ~~commission~~ OFFICE a full set of fingerprints and the fees  
34 required by section 41-1750. The ~~commission~~ ACTING DIRECTOR shall submit the  
35 fingerprints and fees to the department of public safety for the purpose of  
36 obtaining a state and federal criminal records check pursuant to section  
37 41-1750 and Public Law 92-544. The department of public safety may exchange  
38 this fingerprint data with the federal bureau of investigation.

39       3. Enter into intergovernmental agreements.

40       4. With at least twenty-four hours' notice, request specific records  
41 from a business licensee, qualifying party or applicator at the person's  
42 place of business during normal business hours.

43       5. Deny or revoke a license based on the information in the  
44 application or information that the ~~commission~~ ACTING DIRECTOR receives from  
45 the criminal background check.

1           6. On a showing of good cause by the business licensee, excuse a  
2 failure to timely comply with a records request.

3           ~~7. Charge to the holder of a business license the actual cost of~~  
4 ~~providing mailed copies of rules, forms or policies that are proposed for~~  
5 ~~adoption.~~

6           ~~8. Hire independent contractors to conduct inspections and take~~  
7 ~~pesticide samples, soil samples or any other samples for purposes of testing~~  
8 ~~the type and quantity of pesticides that are used in connection with pest~~  
9 ~~control treatment.~~

10           9. 7. Issue advisory notices for de minimis violations.

11           ~~10. Notify a business licensee, qualifying party or licensed applicator~~  
12 ~~of all requests for review of the business licensee's, qualifying party's or~~  
13 ~~licensed applicator's records within ten business days of after the request.~~

14           ~~11. 8. Require inspectors to be licensed applicators in all categories~~  
15 ~~within their scope of work during their probationary period. Inspectors~~  
16 ~~shall attend and complete an investigative training class that is prescribed~~  
17 ~~by the commission within their probationary period~~ ACTING DIRECTOR.

18           ~~12. 9. Investigate alleged violations of all applicable federal and~~  
19 ~~state statutes, and rules adopted or orders issued by the commission or~~  
20 ~~alleged violations of any condition imposed by the commission in connection~~  
21 ~~with a license.~~

22           ~~13. Provide general technical advice, support and information~~  
23 ~~concerning structural pest control to the public and the licensees.~~

24           ~~14. 10. Pursuant to section 32-2329, summarily suspend a license~~  
25 ~~issued under this chapter to protect the health, safety and welfare of the~~  
26 ~~public.~~

27           ~~15. 11. Issue a corrective work order requiring a licensee to remedy~~  
28 ~~deficiencies in treatment or to comply with this chapter or any rules adopted~~  
29 ~~pursuant to this chapter before or after a formal hearing.~~

30           ~~16. 12. Do at least one of the following in relation to unlicensed~~  
31 ~~structural pest control MANAGEMENT business operations:~~

32           (a) Issue a cease and desist order requiring an unlicensed ~~structural~~  
33 ~~pest control~~ MANAGEMENT business to immediately cease operations.

34           (b) Except as provided in section 32-2311, subsection ~~C~~ D, impose on  
35 an unlicensed ~~structural~~ pest ~~control~~ MANAGEMENT business a civil penalty of  
36 not more than one thousand dollars for the first occurrence and not more than  
37 two thousand dollars for the second or subsequent occurrence.

38           ~~17. 13. Refer all cases for formal hearing to the office of~~  
39 ~~administrative hearings.~~

40           ~~18. 14. Refuse to issue a business license in a name that is likely to~~  
41 ~~be misleading or to imply any distorted representation about the business.~~

42           ~~19. 15. Issue a renewable and revocable temporary qualifying party~~  
43 ~~license to a licensed applicator who is a representative of a business~~  
44 ~~licensee if the qualifying party becomes disassociated with the business~~  
45 ~~licensee.~~



1       ~~20.~~ 16. Provide and conduct classes to train applicators and  
2 qualifying parties in preparation for license tests. The ~~commission~~ ACTING  
3 DIRECTOR may assess a fee for each class. The ~~commission~~ ACTING DIRECTOR may  
4 contract with a commercial enterprise or an accredited institution to conduct  
5 the class.

6       ~~21.~~ 17. Provide and conduct continuing education classes quarterly.  
7 The ~~commission~~ ACTING DIRECTOR may assess a fee for each credit hour. The  
8 ~~commission~~ ACTING DIRECTOR may contract with a commercial enterprise or an  
9 accredited institution to conduct the class under the supervision of  
10 ~~commission~~ OFFICE staff.

11       ~~22.~~ 18. Appoint ~~a member or~~ AN employee of the ~~commission~~ OFFICE to  
12 conduct an informal settlement conference with a licensee against whom an  
13 inquiry is received or a complaint is filed.

14       ~~23.~~ 19. Prepare a consent order only after either an informal  
15 settlement conference is conducted pursuant to section 32-2321 or a formal  
16 hearing is conducted pursuant to title 41, chapter 6, article 10.

17       ~~24.~~ 20. Apply to the appropriate court, through the attorney general  
18 or county attorney, for an order enjoining any act or practice that  
19 constitutes a violation of this chapter or any rule adopted pursuant to this  
20 chapter.

21       ~~25.~~ 21. Approve proposed consent orders.

22       ~~26.~~ ~~Annually prepare a strategic plan.~~

23       ~~G.~~ E. Each completed form for a termite treatment that is done before  
24 or during construction, initial termite corrective treatment project or  
25 wood-destroying insect inspection report shall be accompanied by a fee. The  
26 initial fee is eight dollars. The ~~commission~~ ACTING DIRECTOR may:

27       1. Adjust the fee upward or downward to a level that is calculated to  
28 produce sufficient revenue to carry out the functions prescribed under this  
29 section. ~~The commission may~~

30       2. Establish tiered fees according to the means of submission to  
31 encourage electronic submission of the termite action registration form. ~~The~~  
32 ~~commission may~~

33       3. Assess a penalty of not to exceed one hundred dollars per form for  
34 failing to submit the required form or fee, or both, within thirty calendar  
35 days.

36       ~~D. The executive director serves at the pleasure of the commission.~~  
37 ~~Compensation for the executive director and employees shall be determined~~  
38 ~~pursuant to section 38-611.~~

39       E. F. Subject to the limitations of section 41-2544, the executive  
40 ACTING director may enter into agreements for the purpose of enabling the  
41 ~~commission~~ OFFICE to accept payment for fees imposed under this chapter by  
42 alternative payment methods, including credit cards, charge cards, debit  
43 cards and electronic funds transfers. Before the monies are transferred to  
44 the executive ACTING director pursuant to section 32-2305, the person  
45 collecting the fees shall deduct any amount charged or withheld by a company

1 providing the alternative payment method under an agreement with the  
2 ~~commission~~ OFFICE.

3 F. G. In the enforcement of this article, the ~~commission~~ ACTING  
4 DIRECTOR or any of its duly authorized agents may enter with the authority of  
5 a warrant issued by a court of competent jurisdiction at reasonable times on  
6 any private or public property on which pesticides are located or are  
7 reasonably believed to be located to be used for purposes related to  
8 ~~structural pest control~~ MANAGEMENT. The owner, managing agent or occupant of  
9 the property shall permit entry for the purpose of inspecting and  
10 investigating conditions relating to the use, storage, application and  
11 disposal of pesticides.

12 G. ~~The commission shall not delegate to its staff the powers and~~  
13 ~~duties listed under:~~

14 1. ~~Subsection A, paragraphs 1, 2, 12, 14, 18, 19, 20, 23 and 25 of~~  
15 ~~this section.~~

16 2. ~~Subsection B, paragraphs 3, 5, 7, 8, 14, 17, 18, 24 and 25 of this~~  
17 ~~section.~~

18 Sec. 5. Section 32-2305, Arizona Revised Statutes, is amended to read:

19 32-2305. Pest management fund

20 A. A ~~structural pest control~~ ~~commission~~ MANAGEMENT fund is  
21 established.

22 B. Pursuant to sections 35-146 and 35-147, the executive ACTING  
23 director shall deposit ten per cent of all fees in the state general fund and  
24 deposit the remaining ninety per cent in the ~~structural pest control~~  
25 ~~commission~~ MANAGEMENT fund. All monies collected from civil penalties shall  
26 be deposited, pursuant to sections 35-146 and 35-147, in the state general  
27 fund.

28 C. Monies deposited in the ~~structural pest control~~ ~~commission~~  
29 MANAGEMENT fund are ~~subject to section 35-143.01~~ EXEMPT FROM THE PROVISIONS  
30 OF SECTION 35-190 RELATING TO LAPSING OF APPROPRIATIONS.

31 Sec. 6. Section 32-2306, Arizona Revised Statutes, is amended to read:

32 32-2306. Annual and informational reports

33 A. On or before ~~April 30~~ SEPTEMBER 30 of each year, the ~~commission~~  
34 ACTING DIRECTOR shall submit a report regarding the number and types of  
35 termite treatments as ~~reported on termite action reports~~ MAINTAINED pursuant  
36 to section 32-2304, ~~subsections A and G~~ SUBSECTION E. The information shall  
37 be categorized according to the general type of treatment used, including  
38 pesticide, bait, mechanical, temperature and other methods of treatment. If  
39 pesticide treatment is used, the report shall include the active ingredient  
40 or trade name of the pesticide used.

41 B. The ~~commission~~ ACTING DIRECTOR shall submit COPIES OF the report to  
42 the speaker of the house of representatives, the president of the senate, and  
43 the governor, ~~and shall provide a copy of the report to the secretary of~~  
44 state and the director of the Arizona state library, archives and public  
45 records.

1 C. If a buyer of real property makes a request to the ~~commission~~  
2 ACTING DIRECTOR, the ~~commission~~ ACTING DIRECTOR shall make available to the  
3 buyer an information report listing all termite treatments reported to ~~the~~  
4 ~~commission~~ for the property. The wood-destroying insect inspection report  
5 shall state that a buyer may obtain the information report from the  
6 ~~commission~~ ACTING DIRECTOR.

7 Sec. 7. Section 32-2308, Arizona Revised Statutes, is amended to read:  
8 32-2308. Joint responsibility for supervised persons

9 A. A business licensee, qualifying party or applicator may be held  
10 jointly responsible for the acts or omissions of another person who is under  
11 the supervision of the business licensee, qualifying party or applicator if  
12 the supervising licensee fails to properly train, equip or supervise the  
13 other person or fails to maintain records of proper training, equipping or  
14 supervising.

15 B. Failure to timely and fully respond to ~~commission~~ requests BY THE  
16 ACTING DIRECTOR for information relating to training, equipping and  
17 supervising is a prima facie showing of a failure to properly train, equip or  
18 supervise. The supervising licensee has the burden of proof by a  
19 preponderance of the evidence that the business licensee, qualifying party or  
20 applicator has fulfilled the required duties as prescribed by this chapter,  
21 rules adopted pursuant to this chapter or a written order of the ~~commission~~  
22 ACTING DIRECTOR.

23 Sec. 8. Section 32-2311, Arizona Revised Statutes, is amended to read:  
24 32-2311. Persons not required to be licensed; civil penalties

25 A. This ~~article and articles 1 and 3 of this chapter~~ ~~do~~ DOES not apply  
26 to:

27 1. Persons licensed or certified pursuant to title 3, chapter 2,  
28 article 6.

29 2. Persons applying pesticides on property that they own and occupy.

30 3. Authorized representatives of any educational institution engaged  
31 in research in the study of pest ~~control~~ MANAGEMENT or a state agency engaged  
32 in research or the study of pest ~~control~~ MANAGEMENT.

33 4. Employees of political subdivisions or their designated agents  
34 while performing emergency response or rescue services.

35 5. Persons using a nonrestricted, ready to use disinfectant, sanitizer  
36 or deodorizer.

37 6. Except as provided in section 32-2307, persons who are conducting  
38 lawn, garden, shrub or tree maintenance and who apply herbicides for the  
39 purpose of weed ~~control~~ MANAGEMENT. This exemption does not apply to:

40 (a) The use of herbicides that are labeled with the words "restricted  
41 use" or "danger" and that are not commercially available to the general  
42 public.

43 (b) The use of sterilants.

44 (c) Persons who offer weed ~~control~~ MANAGEMENT as their primary  
45 service.

1 (d) Persons who use application equipment that holds more than eight  
2 gallons of total mixed liquid herbicide.

3 (e) Persons who use more than twenty-five pounds of a nonliquid  
4 herbicide.

5 (f) Persons who do not follow label and labeling directions.

6 7. A utility and the utility's employees if ~~both of the following~~  
7 ~~apply:~~

8 ~~(a) pest control~~ MANAGEMENT services are immediately needed for an  
9 employee's health and safety in order for the employee to continue performing  
10 work tasks.

11 ~~(b) A qualifying party ensures that employees who conduct pest control~~  
12 ~~services are properly trained, supervised and equipped.~~

13 B. AN EMPLOYEE OF A POLITICAL SUBDIVISION WHO ENGAGES IN PEST  
14 MANAGEMENT:

15 1. IS NOT REQUIRED TO BE LICENSED UNDER SECTION 32-2313 OR 32-2314.

16 2. MUST BE LICENSED AS AN APPLICATOR UNDER SECTION 32-2312, EXCEPT AS  
17 PROVIDED BY SUBSECTION A, PARAGRAPH 4 OF THIS SECTION.

18 ~~B-~~ C. A person who is exempt pursuant to subsection A, paragraph 6 of  
19 this section shall provide treatment records to each customer on application  
20 of herbicides for the purpose of weed ~~control~~ MANAGEMENT and shall retain  
21 records containing the same information provided to customers. For the  
22 purposes of this subsection, treatment records shall include all of the  
23 following:

24 1. The address of the location of the herbicide application.

25 2. The date of the herbicide application.

26 3. The trade name or common name of the herbicide applied.

27 ~~C-~~ D. If a person is exempt pursuant to subsection A, paragraph 6 of  
28 this section but does not comply with subsection ~~B-~~ C of this section or if a  
29 PERSON IS NOT LICENSED UNDER THIS CHAPTER AND THE person is not exempt  
30 pursuant to subsection A, paragraph 6 of this section as a result of doing  
31 something prescribed in subsection A, paragraph 6, subdivisions (a) through  
32 (f) of this section, the ~~commission~~ ACTING DIRECTOR shall:

33 1. On a first violation, issue a written notice of correction that  
34 contains a warning and a copy of this section and that provides full notice  
35 of the exemption requirements.

36 2. On a second violation, impose a civil penalty of not more than two  
37 hundred fifty dollars.

38 3. On a third or any subsequent violation, impose a civil penalty of  
39 not more than five hundred dollars.

40 Sec. 9. Section 32-2312, Arizona Revised Statutes, is amended to read:

41 32-2312. Applicator licenses; application; categories; renewal;  
42 inactive licenses

43 A. An application for an applicator license shall be in a form  
44 prescribed by the ~~commission~~ ACTING DIRECTOR and accompanied by the  
45 prescribed fee. The application shall set forth whether the applicant has

1 ever been convicted of a felony and, if so, the nature of the felony, when  
2 and where it was committed and the disposition of the conviction.

3 B. An applicant may apply for a license in any one or a combination of  
4 the following categories:

5 1. General and public health pest ~~control~~ MANAGEMENT, excluding  
6 ~~control~~ MANAGEMENT of wood-destroying insects, wood-destroying insect  
7 inspection, antimicrobial pest ~~control~~ MANAGEMENT, fungi inspection,  
8 right-of-way and weed ~~control~~ MANAGEMENT, fumigation, aquatic pest ~~control~~  
9 MANAGEMENT and turf and ornamental horticulture pest ~~control~~ MANAGEMENT.

10 2. ~~Control~~ MANAGEMENT of wood-destroying insects.

11 3. Right-of-way and weed ~~control~~ MANAGEMENT.

12 4. Fumigation.

13 5. Turf and ornamental horticulture pest ~~control~~ MANAGEMENT.

14 6. Antimicrobial pest ~~control~~ MANAGEMENT.

15 7. Fungi inspection.

16 8. Wood-destroying insect inspection.

17 9. Aquatic pest ~~control~~ MANAGEMENT.

18 10. Other categories or subcategories based on practice in the industry  
19 and established by ~~the commission in its rules~~ RULE.

20 C. An applicator shall pass an examination, given under the direction  
21 of the ~~commission~~ ACTING DIRECTOR, with a score of at least seventy-five per  
22 cent for each category in which the applicator is seeking licensure.

23 D. An applicator shall be of good moral character. A felony  
24 conviction may demonstrate a lack of good moral character.

25 E. Except as provided in subsection F of this section, each employee  
26 of a business licensee applying pesticides shall be licensed in all  
27 applicable categories within ninety calendar days ~~of~~ AFTER employment.

28 F. An unlicensed employee of a business licensee applying pesticides,  
29 other than for the treatment of termites, shall work under the direct  
30 supervision of a licensed applicator at all times.

31 G. An unlicensed employee of a business licensee applying pesticides  
32 for the treatment of termites shall work under the immediate supervision of a  
33 licensed applicator at all times. Only one unlicensed employee at a time may  
34 be immediately supervised by a licensed applicator.

35 H. A licensed applicator desiring to work in a category for which the  
36 applicator is not licensed shall become licensed in the category within  
37 thirty calendar days ~~of~~ AFTER beginning work.

38 I. Each applicator license shall be renewed ~~annually~~ by submitting a  
39 form prescribed by the ~~commission~~ ACTING DIRECTOR and paying the prescribed  
40 fee.

41 J. An applicator may apply to the ~~commission~~ ACTING DIRECTOR for  
42 inactive license status. To reactivate an inactive license that has been  
43 inactive for one year or less, an applicator shall apply to the ~~commission~~  
44 ACTING DIRECTOR. To reactivate an inactive license that has been inactive  
45 for more than one year, an applicator shall apply to the ~~commission~~ ACTING

1 DIRECTOR and shall either successfully complete the applicator license  
2 examination or, within twelve months preceding application for reactivation,  
3 complete continuing education as required pursuant to section 32-2319.

4 Sec. 10. Section 32-2313, Arizona Revised Statutes, is amended to  
5 read:

6 32-2313. Business license; renewal; financial security;  
7 definition

8 A. A person who wishes to engage in the business of ~~structural pest~~  
9 ~~control~~ MANAGEMENT shall first obtain a business license from the ~~commission~~  
10 OFFICE as provided in this article. A person who is not exempt under this  
11 article and who advertises for, solicits or holds himself out as willing to  
12 engage in the business of ~~structural pest control~~ MANAGEMENT is presumed to  
13 be in the business of ~~structural pest control~~ MANAGEMENT.

14 B. An application for a business license shall:

15 1. Be in a form prescribed by the ~~commission~~ ACTING DIRECTOR.

16 2. Be accompanied by the prescribed fee.

17 3. Include the name and address of the qualifying party and written  
18 documentation of how the qualifying party will be active in the day-to-day  
19 management of the business licensee.

20 4. List all owners with more than a ten per cent ownership interest in  
21 the company, all corporate officers and members of the board of directors.

22 C. A business licensee shall register each primary and branch office  
23 with the ~~commission~~ ACTING DIRECTOR before it opens for business.

24 D. An applicant shall furnish the following to the ~~commission~~ ACTING  
25 DIRECTOR:

26 1. Proof of financial responsibility consisting of either a deposit of  
27 money, liability insurance, SELF-INSURED RETENTION, a surety bond or a  
28 certified check protecting persons who may suffer legal damages as a result  
29 of the operations of the applicant. The ~~commission~~ ACTING DIRECTOR shall not  
30 accept a bond or a liability insurance policy unless issued by an insurer  
31 that holds a valid certificate of authority or that is permitted to transact  
32 surplus lines insurance in this state. The amount of the deposit, insurance,  
33 SELF-INSURED RETENTION or bond shall be at least ~~three~~ FIVE hundred thousand  
34 dollars ~~for property damage and public liability insurance, each separately,~~  
35 and shall be maintained at not less than that amount at all times during the  
36 licensing period. The license of a business licensee ~~who permits the~~  
37 ~~security of either property damage or public liability insurance to fall~~  
38 ~~below the sum of three~~ WHOSE FINANCIAL SECURITY FALLS BELOW THE MINIMUM FIVE  
39 hundred thousand dollars shall be suspended by the ~~commission~~ ACTING DIRECTOR  
40 and shall remain suspended until the security meets the minimum financial  
41 SECURITY requirement. The ~~property damage and public liability insurance~~  
42 FINANCIAL SECURITY need only cover those particular operations in which the  
43 licensee is engaged at any time. If the financial security is in the form of  
44 liability insurance or a surety bond, the ~~insurer or surety shall provide~~  
45 LICENSEE SHALL FURNISH THE ACTING DIRECTOR WITH a certificate of coverage

1 that indicates the coverages and endorsements required by this subsection ON  
2 A FORM PRESCRIBED BY THE ACTING DIRECTOR.

3 2. Either of the following if the business licensee performs termite  
4 treatments:

5 (a) Proof of a surety bond in the amount of one hundred thousand  
6 dollars per business license for actual damages, including reasonable costs  
7 of collection suffered by persons as a result of termite damage due to  
8 negligent treatment.

9 (b) Proof of a liability insurance policy rider in the amount of one  
10 hundred thousand dollars per business license that covers termite damage due  
11 to negligent treatment.

12 3. If the business licensee provides wood-destroying insect inspection  
13 reports or fungi inspection reports, proof of a surety bond or a liability  
14 insurance policy rider in the amount of one hundred thousand dollars per  
15 business license for actual damages plus reasonable costs of collection  
16 suffered by persons as a result of errors and omissions contained in the  
17 reports.

18 4. If an insurance policy provides for a deductible, the deductible  
19 amount shall ~~be limited to ten thousand dollars~~ NOT EXCEED ONE PER CENT OF  
20 THE TOTAL FINANCIAL SECURITY for each occurrence. If the deductible amount  
21 is in excess of ~~ten thousand dollars~~ ONE PER CENT OF THE TOTAL FINANCIAL  
22 SECURITY for each occurrence, the business licensee shall provide other  
23 security as provided in this subsection or other evidence of financial  
24 security for the excess deductible amount.

25 5. If the financial security is in the form of liability insurance, a  
26 licensee shall maintain a coverage endorsement for pesticides and herbicides,  
27 fumigation, care, custody and control, rights-of-way, wood-destroying insect  
28 inspection report errors and omissions, fungi inspection report errors and  
29 omissions and pollution transit for its applicable license categories.

30 E. If the PROOF OF financial security ~~is in the form of liability~~  
31 ~~insurance~~ ON FILE WITH THE OFFICE EXPIRES, the business license is  
32 automatically suspended until a current certificate of insurance or proof of  
33 financial responsibility is furnished to the ~~commission~~ ACTING DIRECTOR.

34 F. Each business licensee shall ~~annually~~ renew the business license  
35 and each office registration on or before ~~January 1~~ THE EXPIRATION DATE OF  
36 THE LICENSE by filing renewal forms prescribed by the ~~commission~~ ACTING  
37 DIRECTOR and paying the prescribed renewal fees. If a business licensee  
38 fails to renew the business license as required by this subsection, the  
39 licensee shall not engage in the business of ~~structural pest control~~  
40 MANAGEMENT.

41 G. Each branch office of a business licensee shall be supervised by a  
42 licensed applicator or qualifying party who is licensed in all categories in  
43 which the branch office operates.

1 H. For the purposes of this section, "financial security" means  
2 liability insurance, a deposit of cash or certified monies, a surety bond or  
3 other equivalent item.

4 Sec. 11. Section 32-2314, Arizona Revised Statutes, is amended to  
5 read:

6 32-2314. Qualifying party; license; examination; inactive  
7 status; temporary license

8 A. An application for a qualifying party license shall be in a form  
9 prescribed by the ~~commission~~ ACTING DIRECTOR and accompanied by the  
10 prescribed fee. The application shall set forth whether the applicant has  
11 ever been convicted of a felony and, if so, the nature of the felony, when  
12 and where it was committed and the disposition of the conviction.

13 B. A qualifying party may apply for a license in any one or a  
14 combination of the following categories:

15 1. General and public health pest ~~control~~ MANAGEMENT, excluding  
16 ~~control~~ MANAGEMENT of wood-destroying insects, wood-destroying insect  
17 inspection, antimicrobial pest ~~control~~ MANAGEMENT, fungi inspection,  
18 right-of-way and weed ~~control~~ MANAGEMENT, fumigation, aquatic pest ~~control~~  
19 MANAGEMENT and turf and ornamental horticulture pest ~~control~~ MANAGEMENT.

20 2. ~~Control~~ MANAGEMENT of wood-destroying insects.

21 3. Right-of-way and weed ~~control~~ MANAGEMENT.

22 4. Fumigation.

23 5. Turf and ornamental horticulture pest ~~control~~ MANAGEMENT.

24 6. Antimicrobial pest ~~control~~ MANAGEMENT.

25 7. Fungi inspection.

26 8. Wood-destroying insect inspection.

27 9. Aquatic pest ~~control~~ MANAGEMENT.

28 10. Other categories or subcategories based on practice in the industry  
29 and established by the ~~commission in its rules~~ RULE.

30 C. An applicant for qualifying party licensure shall:

31 1. Pass an examination, given under the direction of the ~~commission~~  
32 ACTING DIRECTOR, with a score of seventy-five per cent or more.

33 2. Present evidence satisfactory to the ~~commission~~ ACTING DIRECTOR  
34 that the person has sufficient education or experience in the use of or  
35 supervising the use of a pesticide covered by each category for which the  
36 person is applying as demonstrated by having had within five years  
37 immediately preceding application either:

38 (a) Three thousand verifiable hours of practical experience in the  
39 business of ~~structural~~ pest ~~control~~ MANAGEMENT.

40 (b) Two thousand verifiable hours of practical field experience in the  
41 business of ~~structural~~ pest ~~control~~ MANAGEMENT and have successfully  
42 completed at least twelve semester hours or its equivalent in entomology, the  
43 eradication or ~~control~~ MANAGEMENT of weeds, general horticulture, plant  
44 pathology or any combination of these subjects directly related to each  
45 category for which the person is applying.



1           3. Be of good moral character. A felony conviction may demonstrate a  
2 lack of good moral character.

3           D. The examination shall test the qualifying party's knowledge of  
4 pests and the use, storage and application of pesticides and other devices  
5 used in the eradication of pests within the category for which the person is  
6 applying.

7           E. A qualifying party shall have an inactive qualifying party license  
8 status if the qualifying party is not currently acting as a qualifying party  
9 for a business licensee. To reactivate an inactive license that has been  
10 inactive for one year or less, a qualifying party shall apply to the  
11 ~~commission~~ ACTING DIRECTOR to qualify a business license. To reactivate an  
12 inactive license that has been inactive for more than one year, a qualifying  
13 party shall apply to the ~~commission~~ ACTING DIRECTOR to qualify a business  
14 license and shall either successfully complete the license examination or,  
15 within twelve months preceding application for reactivation, complete  
16 continuing education as required pursuant to section 32-2319.

17           F. If the ~~commission~~ ACTING DIRECTOR issues a renewable and revocable  
18 temporary qualifying party license pursuant to section 32-2304, the temporary  
19 qualifying party ~~qualification~~ LICENSE is valid for sixty calendar days and  
20 may be renewed only on approval of the ~~commission~~ ACTING DIRECTOR if good  
21 cause is established for delay in the procurement of a qualifying party  
22 license. Under the temporary qualifying party license, a business licensee  
23 shall otherwise fully comply with the requirements of this chapter and rules  
24 adopted pursuant to this chapter.

25           G. A person acting as a qualifying party shall:

26           1. Be active in the management of the business licensee by being  
27 present at the business office location each month to review pesticide use,  
28 storage and disposal and by ensuring the supervision and training of the  
29 employees of the business.

30           2. During normal business hours, be readily available to the licensed  
31 applicators and employees of the business licensee.

32           H. A qualifying party shall renew a qualifying party license ~~annually~~  
33 by submitting a form prescribed by the ~~commission~~ ACTING DIRECTOR and a fee  
34 prescribed by section 32-2317. A qualifying party shall furnish to the  
35 ~~commission~~ ACTING DIRECTOR proof of completion of continuing education as  
36 prescribed by section 32-2319. Successful completion of the qualifying party  
37 license examination for each category may be substituted for the continuing  
38 education requirement. Continuing education hours used for renewal of a  
39 qualifying party's applicator license may be used for the qualifying party's  
40 license renewal.

41           Sec. 12. Section 32-2317, Arizona Revised Statutes, is amended to  
42 read:

43           32-2317. Fees

44           A. The ~~commission~~ ACTING DIRECTOR shall establish and collect fees  
45 that may include service charges allowed pursuant to section 32-2304 for

persons who pay with alternative payment methods, including credit cards, charge cards, debit cards and electronic transfers, but that may not exceed the following amounts:

1. Qualifying party license application fee, one hundred fifty dollars.
2. Qualifying party license renewal fee, one hundred fifty dollars.
3. Qualifying party license renewal fee, inactive status, twenty-five dollars.
4. Temporary qualifying party license application fee, twenty-five dollars.
5. Business license application fee, one hundred dollars.
6. Business license renewal fee, one hundred dollars.
7. Branch office registration application fee, fifty dollars.
8. Branch office registration renewal fee, fifty dollars.
9. Late renewal penalty fee, double the prescribed renewal fee.
10. Qualifying party license status change, inactive to active, one hundred twenty-five dollars.
11. Applicator license application, thirty dollars.
12. Applicator license annual renewal, twenty-five dollars.
13. Duplicate license identification card, ten dollars.

B. The ~~commission~~ OFFICE may charge AND COLLECT additional fees for services that the ~~commission~~ ~~deems~~ ACTING DIRECTOR CONSIDERS TO BE appropriate to carry out ~~its~~ THE intent and purpose OF THIS CHAPTER. These additional fees shall not exceed the costs of rendering the services.

Sec. 13. Section 32-2319, Arizona Revised Statutes, is amended to read:

32-2319. Continuing education

A. In order to satisfy continuing education requirements, a licensee shall verify attendance at programs of instruction that are overseen and approved by the ~~commission~~ ACTING DIRECTOR and that are designed to augment the proficiency of the licensed applicator or qualifying party relating to ~~structural pest control~~ MANAGEMENT.

B. If one individual holds both an applicator license and a qualifying party license, the completion of a minimum of six hours of continuing education in the preceding year for the applicator license satisfies the continuing education requirements for both the applicator license and qualifying party license.

Sec. 14. Section 32-2321, Arizona Revised Statutes, is amended to read:

32-2321. Disciplinary action; grounds; procedure; judicial review

A. After AN OPPORTUNITY FOR a formal hearing or pursuant to a consent order, the ~~commission~~ ACTING DIRECTOR may take any of the following disciplinary actions, in combination or alternatively:

- 1           1. Revoke a license.
- 2           2. Suspend a license.
- 3           3. Refuse to renew a license.
- 4           4. Impose probation requirements that require a business licensee,  
5 licensed applicator or qualifying party to comply with one or more specific  
6 provisions of this chapter or rules adopted pursuant to this chapter and that  
7 require reporting by or monitoring of the business licensee, licensed  
8 applicator or qualifying party.
- 9           5. Impose a civil penalty in an amount of not more than one thousand  
10 dollars for each violation except for grounds prescribed in subsection B,  
11 paragraphs 8 and 9 of this section.
- 12         ~~7.~~ 6. Require a qualifying party to report to the ~~commission~~ ACTING  
13 DIRECTOR the qualifying party's role in the management of a business license.
- 14         ~~6.~~ 7. Issue an administrative warning.
- 15         B. The following acts are grounds for disciplinary action:
  - 16           1. Violating this chapter, rules adopted pursuant to this chapter or a  
17 written order of the ~~commission~~ ACTING DIRECTOR.
  - 18           2. Making false or fraudulent records or reports.
  - 19           3. Misrepresenting a material fact in obtaining a license.
  - 20           4. Applying pesticides in a manner that is inconsistent with the label  
21 requirements of the pesticide or that may cause undue harm to the public.
  - 22           5. Misuse of a pesticide if the misuse is due to training received or  
23 not received or lack of appropriate supervision. Proper training includes  
24 training to read and understand the label and labeling and to understand the  
25 proper use of application equipment. Proper supervision includes oversight  
26 of applicators to ensure general compliance with the label, labeling and all  
27 applicable laws.
  - 28           6. Authorizing, directing or abetting the publication, advertisement,  
29 distribution or circulation of any false statement or material  
30 misrepresentation concerning a business of ~~structural pest control~~  
31 MANAGEMENT.
  - 32           7. Conviction of a felony or misdemeanor arising from or in connection  
33 with a license issued pursuant to this chapter after issuance of the license.
  - 34           8. Conviction of a felony.
  - 35           9. Having had a license, or the equivalent, to apply pesticides or  
36 engage in the business of ~~structural pest control~~ MANAGEMENT suspended or  
37 revoked in another jurisdiction for cause.
  - 38           10. Making a fraudulent statement or an intentional material  
39 misrepresentation in connection with a wood treatment proposal or a  
40 wood-destroying insect inspection report.
  - 41           11. ~~Repeated~~ THREE OR MORE de minimis violations of this chapter or  
42 rules adopted under this chapter.
  - 43           12. Failure to provide the ~~commission~~ ACTING DIRECTOR with a current  
44 certificate of insurance or proof of financial responsibility.

1       13. Failure to establish a complete vertical barrier at the exterior of  
2 foundation walls in stem wall construction or exterior of grade beams in  
3 monolithic construction within twelve months of the original treatment made  
4 before or during construction.

5       14. Immediately supervising more than one unlicensed applicator at a  
6 time.

7       15. Failure to make and maintain true and accurate records of  
8 treatments performed, including those performed under warranty or guarantee,  
9 for at least three years from date of treatment except any record of a  
10 termite treatment, a wood-destroying insect inspection report or a fungi  
11 inspection report, which shall be made and maintained for at least five years  
12 from the date of treatment or inspection.

13       16. Failure to make treatment records available within three business  
14 days on request of the property owner, the property owner's authorized agent  
15 or a ~~commission~~ representative OF THE OFFICE.

16       C. Except as provided in section 32-2329, the ~~commission~~ ACTING  
17 DIRECTOR may proceed against a business licensee pursuant to subsection A,  
18 paragraphs 1 through 5 of this section only if, after AN OPPORTUNITY FOR a  
19 hearing, it has been shown that any of the following applies:

20       1. The business licensee has committed a prior violation of the same  
21 type, including any violation by any employee of the business licensee.

22       2. The business licensee failed to follow a written order of the  
23 ~~commission~~ ACTING DIRECTOR directing it to correct a deficiency or problem  
24 within the time specified.

25       3. The business licensee has knowingly assumed operations for a  
26 business licensee whose license has been revoked and during the first three  
27 years after revocation allows the former licensee to play an active role in  
28 company policy, decisions, sales or supervision of employees.

29       4. The business licensee is convicted of a felony.

30       5. The business licensee is determined by the ~~commission~~ ACTING  
31 DIRECTOR to have committed a violation in connection with a treatment before  
32 or during construction.

33       6. The business licensee changes its name or majority ownership of the  
34 business and fails to:

35       (a) Report to the ~~commission~~ ACTING DIRECTOR within thirty calendar  
36 days the status of all warranties issued by the licensee.

37       (b) Notify within thirty calendar days all persons who hold warranties  
38 issued by the licensee regarding the change.

39       7. The business licensee fails to provide written notice immediately  
40 following a pest ~~control~~ MANAGEMENT treatment in or around residential  
41 structures of four or fewer units to the person requesting the treatment or  
42 to the person's designated agent. The notice shall include the specific  
43 pesticide by trade name used in the treatment.

44       8. The business licensee performing pest ~~control~~ MANAGEMENT treatments  
45 on an ongoing basis to locations other than residential structures of four or

1 fewer units fails to provide written notice to the person who requested the  
2 treatments or the person's designated agent. Notice shall be given before  
3 the first application of the pesticide and when new or additional pesticides  
4 are used or immediately after each treatment.

5 9. If the treatments are performed in the interior of residential  
6 units, the licensee fails to leave a notice in the interior of each treated  
7 unit immediately after each treatment. The notice shall include the  
8 pesticide by trade name and any other information as required by the  
9 pesticide label or local ordinance.

10 10. A statement of precaution does not accompany each notification of  
11 treatment required in paragraphs 7, 8 and 9 of this subsection. Each  
12 statement of precaution shall be printed conspicuously, in not less than  
13 eight point type, and shall include the words:

14 Warning--pesticides can be harmful. Keep children and  
15 pets away from pesticide applications until dry, dissipated or  
16 aerated. For more information contact [business license name  
17 and business license number] at [telephone number].

18 11. The business licensee fails within thirty calendar days ~~of~~ AFTER  
19 completion of a termite treatment that is done before or during construction,  
20 an initial termite corrective treatment project or a wood-destroying insect  
21 inspection report, to file with the ~~commission~~ OFFICE, in a form approved by  
22 the ~~commission~~ ACTING DIRECTOR, all data required by the ~~commission~~ ACTING  
23 DIRECTOR. The data shall include:

- 24 (a) The name of the individual who performed the work.
- 25 (b) The address or location of the work or project.
- 26 (c) The type and the date of the work.
- 27 (d) The name of the business licensee.
- 28 (e) The name of the qualifying party.
- 29 (f) The applicator's license number.
- 30 (g) Any other information required by ~~the commission in its rules~~

31 RULE.

32 12. The business licensee, within twelve months ~~of~~ AFTER completion of  
33 a termite treatment that is done before or during construction, fails either  
34 to file a supplemental termite action report in a form provided by the  
35 ~~commission~~ ACTING DIRECTOR that indicates the completion of the final grade  
36 treatment or to report in writing why the treatment has not been completed  
37 and when it will be completed.

38 D. Nothing in subsection C, paragraph 3 of this section shall be  
39 deemed to prohibit a business licensee from directly purchasing accounts from  
40 a licensee whose license has been revoked if the purchase is made within such  
41 time after the revocation as the ~~commission~~ ACTING DIRECTOR by rule may  
42 establish.

43 E. Before taking any action pursuant to this section, the ~~commission~~  
44 ACTING DIRECTOR shall notify in writing interested persons and the licensee  
45 before the date of the hearing pursuant to title 41, chapter 6, article 10

1 either personally or by certified mail at the last address known to the  
2 ~~commission~~ OFFICE. The written notice shall contain the nature of the charge  
3 or charges against the licensee and the time and place of the hearing ~~before~~  
4 ~~the commission~~ on the charges.

5 F. A license may be suspended without a hearing as prescribed in  
6 section 32-2329 or if its holder fails within thirty calendar days to:

7 1. Pay renewal fees.

8 2. Pay civil penalties.

9 3. Demonstrate the completion of required continuing education.

10 G. The holder of a license suspended under subsection F of this  
11 section must apply to the ~~commission~~ ACTING DIRECTOR for reinstatement.

12 H. Licenses suspended under subsection F of this section are  
13 automatically revoked without a hearing after one year of suspension.  
14 Licenses revoked under this section are not subject to section 32-2304,  
15 subsection A, paragraph 18 11.

16 I. All complaints shall be in writing.

17 J. If the ~~commission~~ ACTING DIRECTOR appoints a ~~member or~~ AN employee  
18 of the ~~commission~~ OFFICE to conduct an informal settlement conference with  
19 the complaining party pursuant to section 32-2304, the purpose of the  
20 informal settlement conference is to reach agreement as to the disposition of  
21 all or a portion of the complaint, including any agreement providing for  
22 repairing or rectifying the conditions specified in the complaint. The  
23 settlement conference shall be conducted informally and the rules of evidence  
24 do not apply. The settlement conference shall not be recorded. Participants  
25 in the settlement conference may ask questions of the complainant and may  
26 review any materials or reports compiled by the ~~commission~~ OFFICE with  
27 respect to the complaint.

28 K. If the ~~commission~~ OFFICE prepares a consent order pursuant to  
29 section 32-2304, after either an informal settlement conference conducted  
30 pursuant to subsection J of this section or a formal hearing by the  
31 ~~commission~~ OFFICE conducted pursuant to title 41, chapter 6, article 10, the  
32 consent order shall only set forth the general nature of the inquiry or  
33 complaint, the specific action to be taken by the licensee or business  
34 licensee, the penalty, if any, and the time for compliance, if any, for any  
35 corrective action to be taken.

36 L. Except as provided in section 41-1092.08, subsection H, final  
37 decisions of the ~~commission~~ ACTING DIRECTOR are subject to judicial review  
38 pursuant to title 12, chapter 7, article 6.

39 M. The ~~commission~~ ACTING DIRECTOR shall consider only an inquiry  
40 received or complaint filed within five years ~~of~~ AFTER the date of the  
41 alleged act or omission.

42 N. The ~~commission~~ ACTING DIRECTOR may issue an advisory notice stating  
43 de minimis violations of statutes or rules that carry no penalty, unless the  
44 person subject to this chapter wilfully and repeatedly violates the statute

1 or rule. For wilful and repeated violations, the ~~commission~~ ACTING DIRECTOR  
2 may take disciplinary action against the person for a violation.

3 0. If the ~~commission~~ OFFICE finds a violation or the ~~commission~~ OFFICE  
4 enters into a consent agreement, the ~~commission~~ OFFICE:

5 1. Shall not delete the record of the complaint for at least five  
6 years following the filing of the complaint.

7 2. Shall include information from the inquiry in the record of  
8 complaint. If no violation is found, the information from the inquiry shall  
9 be deleted.

10 P. Only this chapter applies to, regulates and determines all  
11 requirements regarding licensure, licensure fees, testing and education  
12 related to ~~structural pest control~~ MANAGEMENT in this state. Only this  
13 chapter applies to, regulates and determines all requirements regarding the  
14 business of ~~structural pest control~~ MANAGEMENT, including the application or  
15 notification of use or disposal of pesticides for ~~structural pest control~~  
16 MANAGEMENT in this state.

17 Q. For purposes of filing or submitting all documents or fees required  
18 under this chapter, service is considered complete if postmarked on the  
19 proper date and delivered by first class mail or a higher class.

20 Sec. 15. Section 32-2323, Arizona Revised Statutes, is amended to  
21 read:

22 32-2323. Wood-destroying insects; treatment proposal;  
23 registration form; fee

24 A. A business licensee shall not commence work on a contract or sign,  
25 issue or deliver any documents expressing an opinion or making a statement  
26 relating to the presence or absence of wood-destroying insects in a structure  
27 until an inspection is made.

28 B. Only an applicator OR QUALIFYING PARTY licensed in the categories  
29 of wood-destroying insect ~~control~~ MANAGEMENT and wood-destroying insect  
30 inspection shall prepare a treatment proposal on a form approved by the  
31 ~~commission~~ ACTING DIRECTOR and shall deliver a copy of the treatment proposal  
32 to the person requesting the proposal, or the person's designated agent,  
33 before beginning treatment. The treatment proposal shall include the  
34 following information:

35 1. The address of the property to be treated.

36 2. A statement describing that the work is preventative or corrective.

37 3. A statement describing the evidence of infestation or damage.

38 4. A diagrammatic description showing the nature and location of  
39 evidence of infestation or damage, or both, if applicable.

40 5. A statement describing the treatment or repair method, including  
41 the name of the pesticide, agent or device to be used and a diagrammatic  
42 description showing where the treatment or repair will be rendered.

43 6. The price for the work.

44 7. The terms for the service agreement provided by the business  
45 licensee.

1           8. The signature and license number of the person who made the  
2 inspection of the structure to be treated.

3           C. A licensee shall also give to the person requesting a proposal a  
4 written recommendation that verifies a particular problem and, in addition to  
5 the licensee's recommendation for treatment, shall advise the person of  
6 alternative treatments and methods, including integrated pest management  
7 methods to alleviate the problem.

8           D. A treatment proposal shall not be in the same form or be construed  
9 as a wood-destroying insect inspection report. A treatment proposal that  
10 does not identify infestation by wood-destroying insects is not a binding  
11 statement as to the presence or absence of wood-destroying insects.

12           E. A treatment proposal shall be prepared by a licensed applicator OR  
13 QUALIFYING PARTY who has received at least five hours of instruction from the  
14 ~~commission~~ OFFICE or an in-house education program of a business licensee on  
15 the subject of wood-destroying insect inspections. An examination on the  
16 instruction is not required. The business licensee shall keep a record of  
17 completion of the training and shall make the record available on the  
18 ~~commission's~~ ACTING DIRECTOR'S request.

19           F. If a business licensee performs a treatment pursuant to a treatment  
20 proposal, the business licensee shall maintain for five years a record of the  
21 treatment and the name and quantity of the pesticide used.

22           G. Within thirty calendar days after completion of a termite treatment  
23 or on the next business day after the thirty calendar days, a business  
24 licensee shall file with the ~~commission~~ OFFICE in a form or format approved  
25 by the ~~commission~~ ACTING DIRECTOR a complete and accurate termite action  
26 registration form and a fee as prescribed by the ~~commission~~ ACTING DIRECTOR.  
27 The termite action registration form shall include information prescribed in  
28 section 32-2321, subsection C, paragraph 11 and this section. This  
29 subsection only applies to the following:

30           1. Any treatments done before or during construction, including final  
31 grade treatments.

32           2. The first preventative or corrective termite treatment by a  
33 business licensee to a site. If the business licensee who performed this  
34 termite treatment performed the before or during construction treatment at  
35 the same site and filed a termite action report form with the ~~commission~~  
36 OFFICE documenting the before or during construction treatment, the business  
37 licensee is exempt from this paragraph.

38           3. A wood-destroying insect inspection report.

39           Sec. 16. Section 32-2324, Arizona Revised Statutes, is amended to  
40 read:

41           32-2324. Wood-destroying insect inspection reports

42           A. Wood-destroying insect inspection reports may only be completed by  
43 an applicator OR QUALIFYING PARTY who is licensed in the categories of  
44 ~~control~~ MANAGEMENT of wood-destroying insects and wood-destroying insect  
45 inspection and who has received at least five hours of instruction from the



1 ~~commission~~ OFFICE OR THE FORMER STRUCTURAL PEST CONTROL COMMISSION or an  
2 in-house education program of a business licensee on the subject of  
3 wood-destroying insect inspection reports. An examination on the instruction  
4 is not required. The business licensee shall keep a record of completion of  
5 the training and shall make the record available on the ~~commission's~~ ACTING  
6 DIRECTOR'S request.

7 B. Wood-destroying insect inspection reports shall be on file in the  
8 office of the business licensee within seven calendar days after the  
9 completion of an inspection. The business licensee shall retain a copy of  
10 all completed wood-destroying insect inspection reports for five years and  
11 make the reports available on the ~~commission's~~ ACTING DIRECTOR'S request.

12 C. Wood-destroying insect inspection reports are evidence of the  
13 existence or absence of wood-destroying insects that were visible and  
14 accessible to an inspector on the date the inspection was made. A business  
15 licensee remains responsible for the accuracy of the inspection and the  
16 report as evidence of the presence or absence of infestation on the date of  
17 inspection, except that a wood-destroying insect inspection report shall not  
18 be construed as a guarantee as to the presence or absence of wood-destroying  
19 insects in a structure after the date of inspection.

20 Sec. 17. Section 32-2324.01, Arizona Revised Statutes, is amended to  
21 read:

22 32-2324.01. Fungi inspection reports

23 A. Fungi inspection reports may only be completed by a licensed  
24 applicator OR QUALIFYING PARTY who is licensed in the fungi category and who  
25 has received at least eight hours of instruction from the ~~commission~~ OFFICE  
26 OR THE FORMER STRUCTURAL PEST CONTROL COMMISSION or an in-house education  
27 program of a business licensee on the subject of fungi inspection and  
28 inspection reports. An examination on the instruction is not required. The  
29 business licensee shall keep a record of the completion of the training and  
30 shall make the record available on the ~~commission's~~ ACTING DIRECTOR'S  
31 request.

32 B. Fungi inspection reports shall be on file in the office of the  
33 business licensee within seven calendar days after the completion of an  
34 inspection. The business licensee shall retain a copy of all completed fungi  
35 inspection reports for five years and make the reports available on the  
36 ~~commission's~~ ACTING DIRECTOR'S request.

37 C. Fungi inspection reports are evidence of the existence or absence  
38 of fungi that was visible and accessible to an inspector on the date the  
39 inspection was made. A business licensee remains responsible for the  
40 accuracy of the inspection and the report as evidence of the presence or  
41 absence of fungi on the date of inspection, except that a fungi inspection  
42 report shall not be construed as a guarantee as to the presence or absence of  
43 fungi in a structure after the date of inspection.

1       ~~D. Licensees who are licensed in the wood-destroying organism category~~  
2 ~~by September 18, 2003, are permitted to perform the business of structural~~  
3 ~~pest control in the fungi category until June 30, 2004. After that date, any~~  
4 ~~person performing a fungi inspection shall be licensed in the fungi category.~~

5       ~~E.~~ D. The ~~commission~~ ACTING DIRECTOR shall approve a fungi inspection  
6 report FORM for use in fungi inspections.

7       Sec. 18. Section 32-2325, Arizona Revised Statutes, is amended to  
8 read:

9       32-2325. Unlawful acts

10       A person shall not:

11       1. Engage in the business of ~~structural pest control~~ MANAGEMENT  
12 without holding a business license issued pursuant to this chapter.

13       2. Engage in the business of ~~structural pest control~~ MANAGEMENT in any  
14 category without a qualifying party licensed in that category.

15       3. Operate a branch office without employing a licensed applicator or  
16 qualifying party under whose direct supervision pesticide applications are  
17 made out of that office.

18       4. Apply pesticides in any category other than the control of  
19 wood-destroying insects unless the person is an applicator OR QUALIFYING  
20 PARTY licensed in that category pursuant to this chapter or applies the  
21 pesticides under the direct supervision of an applicator OR QUALIFYING PARTY  
22 licensed in that category pursuant to this chapter.

23       5. Apply pesticides for the ~~control~~ MANAGEMENT of wood-destroying  
24 insects unless both of the following apply:

25       (a) The person is an applicator OR QUALIFYING PARTY licensed in that  
26 category pursuant to this chapter or the person applies the pesticides under  
27 the immediate supervision of a licensed applicator.

28       (b) The person has received at least five hours of instruction from  
29 the ~~commission~~ OFFICE OR THE FORMER STRUCTURAL PEST CONTROL COMMISSION or an  
30 in-house education program of a business licensee on the subject of ~~control~~  
31 MANAGEMENT of wood-destroying insects that is appropriate for the specific  
32 type of application performed. An examination on the instruction is not  
33 required. A business licensee shall keep a record of completion of the  
34 training and shall make it available on the ~~commission's~~ ACTING DIRECTOR'S  
35 request.

36       6. Make recommendations regarding ~~structural pest control~~ MANAGEMENT  
37 unless the person is a licensed applicator OR QUALIFYING PARTY.

38       7. Deny to a ~~commission~~ AN AUTHORIZED inspector the right to be  
39 present on a jobsite in connection with a contemporaneous pest ~~control~~  
40 MANAGEMENT treatment for the purpose of taking samples, including pesticide  
41 samples and soil samples.

1           Sec. 19. Section 32-2327, Arizona Revised Statutes, is amended to  
2 read:

3           32-2327. Injunctive relief

4           In addition to all other remedies, the ~~commission~~ ACTING DIRECTOR,  
5 either through the attorney general or the county attorney, may apply to the  
6 appropriate court for an order enjoining any act or practice ~~which~~ THAT  
7 appears to constitute a violation of this chapter or rules adopted pursuant  
8 to this chapter. On a proper showing, a temporary restraining order, a  
9 preliminary injunction or a permanent injunction shall be granted without  
10 bond.

11          Sec. 20. Section 32-2329, Arizona Revised Statutes, is amended to  
12 read:

13          32-2329. Summary suspension

14          ~~At a public meeting, The commission~~ ACTING DIRECTOR may summarily  
15 suspend, without a formal hearing, any license issued ~~by the commission~~  
16 PURSUANT TO THIS CHAPTER if the ~~commission deems it~~ ACTING DIRECTOR CONSIDERS  
17 IT TO BE necessary to protect the health, safety and welfare of the public.  
18 ~~A summarily suspended license remains suspended until the next meeting of the~~  
19 ~~commission. The commission may remove a summary suspension or continue a~~  
20 ~~summary suspension after a review at a commission meeting or may revoke a~~  
21 ~~license as provided in section 32-2321.~~

22          Sec. 21. Section 36-606, Arizona Revised Statutes, is amended to read:

23          36-606. Pesticide illness; medical education; reports

24          A. The director of the department of health services shall develop and  
25 implement, in cooperation with rural health clinics, county health  
26 departments, state and local medical associations, poison control centers and  
27 other appropriate health care professionals, a system for reporting and  
28 preventing pesticide provoked illnesses. This program shall include:

29           1. Medical education programs to alert health care professionals to  
30 the symptoms, diagnosis, treatment and reporting of pesticide provoked  
31 illnesses.

32           2. A statewide reporting network, which shall:

33           (a) Require health care professionals and poison control centers to  
34 file incident reports of an illness ~~which~~ THAT they reasonably believe, based  
35 on professional judgment, to be caused by or related to documented exposure  
36 to a pesticide.

37           (b) Catalogue and retrieve data regarding pesticide poisoning for use  
38 in worker and public health education programs to prevent pesticide  
39 poisoning.

40          B. The health care professional or poison control center required to  
41 file an incident report required pursuant to subsection A, paragraph 2,  
42 subdivision (a),— shall specifically indicate in the incident report the  
43 reason for believing that the illness is caused by or related to documented  
44 exposure to a pesticide and shall specify if the illness is caused by the  
45 documented exposure or is related to the documented exposure. All incident

1 reports shall be filed with the director. The director shall provide to the  
2 Arizona department of agriculture all records, reports and information of all  
3 illnesses resulting from documented exposure to agriculture pesticides and  
4 shall provide to the ~~structural pest control commission~~ OFFICE OF PEST  
5 MANAGEMENT all records, reports and information of all illnesses resulting  
6 from documented exposure to structural pesticides.

7 Sec. 22. Section 41-1092, Arizona Revised Statutes, is amended to  
8 read:

9 41-1092. Definitions

10 In this article, unless the context otherwise requires:

11 1. "Administrative law judge" means an individual or an agency head,  
12 board or commission that sits as an administrative law judge, that conducts  
13 administrative hearings in a contested case or an appealable agency action  
14 and that makes decisions regarding the contested case or appealable agency  
15 action.

16 2. "Administrative law judge decision" means the findings of fact,  
17 conclusions of law and recommendations or decisions issued by an  
18 administrative law judge.

19 3. "Appealable agency action" means an action that determines the  
20 legal rights, duties or privileges of a party and that is not a contested  
21 case. Appealable agency actions do not include interim orders by  
22 self-supporting regulatory boards or rules, orders, standards or statements  
23 of policy of general application issued by an administrative agency to  
24 implement, interpret or make specific the legislation enforced or  
25 administered by it, nor does it mean or include rules concerning the internal  
26 management of the agency that do not affect private rights or interests. For  
27 the purposes of this paragraph, administrative hearing does not include a  
28 public hearing held for the purpose of receiving public comment on a proposed  
29 agency action.

30 4. "Director" means the director of the office of administrative  
31 hearings.

32 5. "Final administrative decision" means a decision by an agency that  
33 is subject to judicial review pursuant to title 12, chapter 7, article 6.

34 6. "Office" means the office of administrative hearings.

35 7. "Self-supporting regulatory board" means any one of the following:

36 (a) The ARIZONA state board of accountancy.

37 (b) The state board of appraisal.

38 (c) The board of barbers.

39 (d) The board of behavioral health examiners.

40 (e) The Arizona state boxing commission.

41 (f) The state board of chiropractic examiners.

42 (g) The board of cosmetology.

43 (h) The state board of dental examiners.

44 (i) The state board of funeral directors and embalmers.

45 (j) The Arizona game and fish commission.

- 1 (k) The board of homeopathic medical examiners.
- 2 (l) The Arizona medical board.
- 3 (m) The naturopathic physicians board of medical examiners.
- 4 (n) The state board of nursing.
- 5 (o) The board of examiners of nursing care institution administrators
- 6 and adult care home managers.
- 7 (p) The board of occupational therapy examiners.
- 8 (q) The state board of dispensing opticians.
- 9 (r) The state board of optometry.
- 10 (s) The Arizona board of osteopathic examiners in medicine and
- 11 surgery.
- 12 (t) The Arizona peace officer standards and training board.
- 13 (u) The Arizona state board of pharmacy.
- 14 (v) The board of physical therapy examiners.
- 15 (w) The state board of podiatry examiners.
- 16 (x) The state board for private postsecondary education.
- 17 (y) The state board of psychologist examiners.
- 18 (z) The board of respiratory care examiners.
- 19 ~~(aa) The structural pest control commission.~~
- 20 (aa) THE OFFICE OF PEST MANAGEMENT.
- 21 (bb) The state board of technical registration.
- 22 (cc) The Arizona state veterinary medical examining board.
- 23 (dd) The acupuncture board of examiners.
- 24 (ee) The Arizona regulatory board of physician assistants.
- 25 (ff) The board of athletic training.
- 26 (gg) The board of massage therapy.

27 Sec. 23. Reorganizing and restructuring pest management  
28 regulation; report

29 The auditor general shall conduct a performance audit of the office of  
30 pest management pursuant to section 41-1278, Arizona Revised Statutes, and  
31 provide a report to the governor, the president of the senate and the speaker  
32 of the house of representatives by November 12, 2010. The report shall  
33 include the following:

- 34 1. Recommendations for the regulation of the pest management industry
- 35 in a manner that most effectively provides protection to the general public.
- 36 2. Recommendations for the reorganization and restructuring of the
- 37 office of pest management, including a recommendation regarding oversight by
- 38 a state agency, department or board. The auditor general shall not recommend
- 39 a structure that is the same as or similar to the structure of the former
- 40 structural pest control commission.

41 Sec. 24. Pest management advisory committee

42 A. A pest management advisory committee is established for the purpose  
43 of providing general guidance to the acting director. The committee consists  
44 of the following seven members:

1           1. Three industry members, one each appointed by the governor, the  
2 president of the senate and the speaker of the house of representatives. The  
3 industry members shall hold current active licenses issued by the office of  
4 pest management or the structural pest control commission under prior law and  
5 have a minimum of five years of pest management experience. The industry  
6 member appointed by the president of the senate shall be an active business  
7 licensee who has five or fewer employees.

8           2. Three public members, one each appointed by the governor, the  
9 president of the senate and the speaker of the house of representatives.

10          3. One member who has at least a baccalaureate degree and is an  
11 entomologist, plant pathologist, toxicologist, medical doctor, doctor of  
12 osteopathy or individual holding a degree in public health or occupational  
13 health, who is appointed by the governor.

14          B. No member of the pest management advisory committee shall be a  
15 current or former appointee to the former structural pest control commission.

16          Sec. 25. Succession

17          A. As provided by this act, the office of pest management succeeds to  
18 the authority, powers, duties and responsibilities of the structural pest  
19 control commission.

20          B. This act does not alter the effect of any action or impair the  
21 valid obligations of the structural pest control commission taken before the  
22 effective date of this act.

23          C. Administrative rules and orders adopted by the structural pest  
24 control commission continue in effect until superseded by administrative  
25 action by the office of pest management.

26          D. All administrative matters, contracts and judicial and  
27 quasi-judicial actions, whether completed, pending or in process, of the  
28 structural pest control commission on the effective date of the act are  
29 transferred to and retain the same status with the office of pest management.

30          E. All certificates, licenses, registrations, permits and other  
31 indicia of qualification and authority that were issued by the structural  
32 pest control commission retain their validity for the duration of their terms  
33 of validity as provided by law.

34          F. All equipment, records, furnishings and other property, all data  
35 and investigative findings and all appropriated monies that remain unexpended  
36 and unencumbered on the effective date of this act of the structural pest  
37 control commission are transferred to the office of pest management.

38          G. All personnel who are under the state personnel system and employed  
39 by the structural pest control commission are transferred to comparable  
40 positions and pay classification in the office of pest management on the  
41 effective date of this act.

42          H. The office of pest management shall occupy the location formerly  
43 occupied by the structural pest control commission until a formal  
44 recommendation has been enacted by the legislature.

1       Sec. 26. Appointment of acting director

2       A. For purposes of appointing the acting director of the office of  
3 pest management, the director of the department of administration shall not  
4 appoint any of the following:

5       1. A current or former appointee to the structural pest control  
6 commission.

7       2. A former employee of the structural pest control commission.

8       3. A current or former employee of the Arizona department of  
9 agriculture.

10      B. The director may consider a current employee of the structural pest  
11 control commission for appointment as the acting director.

12      Sec. 27. Emergency

13      This act is an emergency measure that is necessary to preserve the  
14 public peace, health or safety and is operative immediately as provided by  
15 law.

APPROVED BY THE GOVERNOR JULY 7, 2008.

FILED IN THE OFFICE OF THE SECRETARY OF STATE JULY 7, 2008.